

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

PHYSICIANS HEALTHSOURCE, INC.,	)	
	)	
Plaintiff,	)	
	)	Case No. 15-cv-00664-JAR
v.	)	
	)	
EXPRESS SCRIPTS, INC., et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO STAY**

Defendants and Plaintiff agree that the motion for class certification filed with the Complaint in this action is premature and incomplete. It is a motion without a memorandum, without any citation to relevant legal authority, or any sincere basis upon which it could plausibly be granted at this time. Doc. No. 9.

While the parties agree that the motion is premature and incomplete, they disagree on how it should be handled. Defendants moved to deny the motion *without* prejudice. Doc. Nos. 18-19. If Plaintiff was not ready to address class certification, Plaintiff should never have filed the motion in the first place.

Instead, Plaintiff responded with a motion to "stay" briefing or compel some sort of stipulation from Defendants that they will not attempt to make a settlement offer, or a Rule 68 offer of judgment to Plaintiff, until Plaintiff's counsel is ready for one. Doc. No. 20. Plaintiff's motion appears to be driven by an apparent concern that Defendants will make a settlement offer, and that Plaintiff's counsel will then lose their favored plaintiff as a putative class representative for this action.

Defendants have made no such overture and believe this is a frivolous action, brought with no investigation, against the wrong parties. Accordingly, Defendants have moved to have this action dismissed, or in the alternative, for summary judgment. Doc. Nos. 15-16.

For these reasons, and for the reasons set forth in Defendants' Motion to Deny (Doc. No. 18-19), Defendants respectfully request that the Court deny Plaintiff's Motion to Stay (Doc. No. 20) and for Class Certification (Doc. No. 9). Defendants have no objection to Plaintiff refiling its motion for class certification at an appropriate time, when Plaintiff is actually prepared to brief the issue.

Dated: May 4, 2015

HUSCH BLACKWELL LLP

By: /s/ Christopher A. Smith  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 4<sup>th</sup> day of May, 2015, the foregoing was filed electronically with the Clerk of this Court, to be served by operation of this Court's electronic filing system upon all counsel of record.

/s/ Christopher A. Smith